

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	

COMMENTS of ADTRAN, INC.

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SUMMARY

ADTRAN urges the Commission to continue its efforts to foster the deployment of broadband services to all Americans. The Universal Service Fund reforms adopted in the *USF/ICC Transformation Order* will be a significant help in reaching that goal. The Commission, therefore, should not “hit pause” while awaiting implementation of CAF Phase II. Rather, the Commission should follow the path set in the *USF/ICC Transformation Order* and supplement the funds available for near-term broadband support for price cap carriers by distributing another \$300 million in CAF Phase I support in 2013, as well as permitting carriers to spend CAF Phase I support allocated to them in 2012 after making several discrete changes to the eligibility criteria. ADTRAN also supports the Commission’s proposal to allow carriers to accept additional funding if other carriers do not accept their full allocations.

The additional time and lessons learned from the first round of CAF Phase I provide the Commission with an opportunity to refine the CAF Phase I rules for the second round. ADTRAN supports the proposal to expand eligible areas to include territories where subscribers do not have access to broadband that meets the Commission’s 4 Mbps downstream and 1 Mbps upstream standard. Such a change should help prevent creation of a set of customers relegated to “second class” broadband. ADTRAN also supports the proposal to substitute a limited challenge process for the exclusive reliance on the National Broadband Map to determine census blocks eligible for CAF Phase I broadband support. The Commission should also use this opportunity to create funding parameters that account for the variation in the costs of deploying broadband service in different wire centers, rather than solely relying on a \$775 per location metric. Finally, ADTRAN urges the Commission to modify the rules so that CAF Phase I funds can be used to support the deployment of second-mile fiber, which would well serve the public interest.

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ADTRAN, Inc. (“ADTRAN”) is filing these comments in response to the Commission’s Further Notice of Proposed Rulemaking concerning potential changes to the Connect America Fund (“CAF”) Phase I broadband deployment subsidy program.¹ The *Further NPRM* seeks comment on refinements to CAF Phase I in light of experiences with the initial funding efforts and the delays in implementing CAF Phase II. As explained below, ADTRAN urges the Commission not to put its efforts to foster broadband deployment on hold, but rather to continue and strengthen its CAF Phase I efforts while continuing its work on CAF Phase II.

ADTRAN, founded in 1986 and headquartered in Huntsville, Alabama, is a leading global manufacturer of networking and communications equipment, with an innovative portfolio of solutions for use in the last mile of today’s telecommunications networks. ADTRAN’s equipment is deployed by some of the world’s largest service providers, as well as distributed enterprises and small and medium businesses. Importantly for purposes of this proceeding, ADTRAN solutions enable voice, data, video and Internet communications across copper, fiber and wireless network infrastructures. ADTRAN thus brings an expansive perspective to this

¹ *Connect America Fund*, Further Notice of Proposed Rulemaking, FCC 12-138, released November 19, 2012 (“*Further NPRM*”).

issue. As recognized in the comprehensive *Connect America Fund Order*, ADTRAN has also been an active participant at all stages of this proceeding.²

The Commission Should Supplement the Funds Available under CAF Phase I

As an initial matter, the *Further NPRM* seeks comment on what to do with unclaimed funds from the first round of CAF Phase I, and whether a second round of CAF Phase I funding should be implemented to continue support for broadband deployment while CAF Phase II is finalized. ADTRAN urges the Commission to increase the funds available to foster broadband deployment for price cap carriers under CAF Phase I. It will still be some time before the Commission can complete the necessary tools, including cost models, to implement CAF Phase II. Broadband deployment, however, is far too important to our nation's future for the Commission to simply hit "pause" after the first round of CAF Phase I and leave a void in support for deployment while awaiting CAF Phase II. Such a deferral would delay broadband service to unserved and/or underserved customers, and would also send the wrong signal to the marketplace with regard to the importance the Commission places on the rapid deployment of broadband to all Americans. This latter concern is significant, insofar as private capital will still comprise the largest source of funding for continuing broadband deployment, even with the implementation of the Commission's CAF Phase II broadband support program.

² Indeed, the Commission relied extensively on ADTRAN's input in the *USF/ICC Transformation Order*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (Nov. 18, 2011) ("*USF/ICC Transformation Order*"), at nn. 136, 144, 145, 148, 180 and 182.

To the extent funds remain from the first round of CAF Phase I, ADTRAN supports the Commission’s proposal to combine that support for broadband deployment by price cap carriers with a second round of CAF Phase I funding at the \$300 million annual level established in the *USF/ICC Transformation Order*.³ It certainly advances the public interest for the Commission to use Universal Service Fund support to foster broadband deployment in territories where the costs would otherwise make it unlikely that broadband would be deployed anytime soon, and maximizing the funds available for such support will accelerate broadband deployment to a greater number of households.

The other alternatives suggested in the *Further NPRM* – adding unspent round one CAF Phase I funding into CAF Phase II, or using the unspent funds to reduce Universal Service Fund contributions – would not serve the public interest nearly as well. The first proposal would pose its own complexities in terms of how to allocate the funds. The latter proposal would not foster the deployment of broadband service, and the one-time reduction in the USF “taxes” would amount to little more than a “rounding error”⁴ that would be unlikely to stimulate additional calling or even be noticed by consumers. Applying that funding to a second round of CAF Phase I, in contrast, would extend broadband service to tens of thousands of unserved homes and businesses in the very short term.⁵ And while folding unspent round one CAF Phase I funding

³ *Further NPRM* at ¶¶ 3, 36 and 41.

⁴ Applying the funds to the most recent calculation of the USF Contribution Factor would have modified it very slightly, from 16.1 to 15.8.

⁵ For example, Windstream concluded that refining the CAF Phase I requirements in its territory “would lead directly to new broadband service for nearly 44,000 unserved Americans in the hardest-to-reach areas.” Windstream Petition for Waiver, Skudin Declaration, July 24, 2012, at ¶ 12. CenturyLink demonstrated that changes in the CAF Phase I rules would extend real

into CAF Phase II should eventually lead to additional broadband deployment, it would needlessly result in several years of delay while that program is implemented. The public interest would thus best be served by adopting the proposal to “combine the remaining funding from the first round of the Connect America Fund into any future rounds of Connect America Phase I funding”.⁶

The Further NPRM also seeks comment on how the second round of CAF Phase I funding should be distributed among the price cap carriers, assuming the Commission combines the “unclaimed” funds from the first round with a second round of support. ADTRAN supports the first proposed methodology: “One approach would be to allocate any funding a carrier previously declined to that carrier, in addition to the funding it would otherwise be allocated for the future round.”⁷

To the extent the distribution methodology used in the first round was equitable and efficient, applying that same approach in the second round of CAF Phase I funding should also lead to equitable and efficient results. Moreover, this approach also has the virtue of not punishing a carrier for declining first round support when the rules in effect at that time were less flexible.⁸

broadband service to some 30,000 households. CenturyLink Waiver Petition, June 26, 2012, at p. 6.

⁶ *Further NPRM* at ¶ 3.

⁷ *Further NPRM* at ¶ 37.

⁸ Indeed, several of the carriers had sought waivers of the first round rules in order to be able to fully and efficiently utilize the CAF Phase I support. *E.g.*, *Public Notice*, Wireline

In addition, ADTRAN supports the Commission's proposal to allow carriers to accept additional funding if other carriers choose not to accept their full allocation.⁹ For the reasons explained above, ADTRAN believes that the public interest is best served by setting the amount of funding available to foster broadband deployment in the second round of CAF Phase I as high as possible. This goal would be advanced by allowing price cap carriers who are anxious to deploy broadband to use funds declined by another carrier. Such an approach will spur the greatest number of newly served customers in the short term, in advance of the implementation of CAF Phase II.

The Commission Should Make Some Adjustments to CAF Phase I Requirements

In addition to combining the remaining funding from the first round of CAF Phase I into a second round of CAF Phase I, the *Further NPRM* also seeks comment on some changes to the rules applicable to CAF Phase I. ADTRAN concurs with many of the proposed modifications. The Commission's experiences with the first round of CAF Phase I and better information now available support adjustments to the way support should be allocated and spent. ADTRAN appreciates that the initial parameters were intended to be a "rough justice," interim program. However, in light of the delays in implementing CAF Phase II, the Commission can use this additional time (and greater knowledge) to refine CAF Phase I in order to better foster broadband

Competition Bureau Seeks Comment on Windstream Communications Petition for Waiver of Certain High-Cost Universal Service Rules, DA 12-1181, released July 25, 2012; *Public Notice*, "Wireline Competition Bureau Seeks Comment on CenturyLink Petition For Limited Waiver of Certain High-Cost Universal Service Rules," DA 12-1007, released June 27, 2012.

⁹ *Further NPRM* at ¶ 38.

deployment in the price cap territories, even for the relative “short term.” ADTRAN addresses below the specific proposals set forth in the *Further NPRM*.

Coordination of CAF Phase I and CAF Phase II

ADTRAN appreciates the Commission’s concerns that whatever changes it implements in the second round of CAF Phase I ought to be in harmony with CAF Phase II. The *Further Notice* raises several issues in this regard. As a general matter, ADTRAN does not believe that any of the proposed changes for the second round of CAF Phase I are at cross purposes with CAF Phase II or the Commission’s goals with respect to accelerating the deployment of broadband to all Americans. Nonetheless, there are steps the Commission can take to ensure that the phases are coordinated.

ADTRAN certainly supports measures to ensure that, to the extent the Commission allows a carrier to use Phase I support to fund the build-out of “second mile fiber,” a carrier does not receive funding in both Phase I and Phase II to pay twice for build out of the same fiber facilities. As the Commission recognized in the *Connect America Fund Order* when it limited support so that only a single carrier would receive support in any territory, we can ill-afford the inefficiencies of paying for more than a single subsidized service.¹⁰ The USF already imposes a significant burden on the services that bear its burden – with recent contribution factors above 16% -- and allowing a carrier to recover twice for the same facilities would impose entirely unnecessary costs. Indeed, the Commission already applies a similar limitation when it restricts

¹⁰ E.g., *USF/ICC Transformation Order* at ¶¶ 281, 319 and 505.

CAF Phase I support for facilities that are already subsidized under the Rural Utilities Service's (RUS's) Broadband Initiatives Program (BIP).¹¹

The Further NPRM expresses some concern regarding the potential adverse effect CAF Phase I could have on CAF Phase II, asking:

Finally, if carriers accept Phase I funding for fiber builds, what is the likely impact on their willingness to accept Phase II funding for the remainder of their qualifying areas? Does it serve the public interest to advance broadband deployment in Phase I even if carriers may be less likely to accept the funding and service obligations in Phase II?¹²

ADTRAN does not believe that a carrier's acceptance of CAF Phase I funds will impact its decision with regard to CAF Phase II funding, which instead will be driven by the accuracy of the cost model developed for purposes of determining CAF Phase II subsidies (and the burdensomeness of any other requirements imposed in CAF Phase II). Moreover, the CAF Phase I funds will accelerate broadband deployment even sooner for some of the carrier's customers, thus allowing them to enjoy the manifold benefits of broadband -- broadband access has become critical to education, communication, employment, productivity, health care, entertainment and an informed and participatory electorate.

Modified Use of the CAF Phase I Funds

As reflected by the fact that over half of the first round CAF Phase I funding for price cap carriers went unclaimed, the Commission's initial, "rough cut" parameters for awarding Phase I

¹¹ *USF/ICC Transformation Order* at n. 233.

¹² *Further NPRM* at ¶ 28.

money were somewhat off. Indeed, several carriers had sought waivers of the initial rules.¹³ The Commission, however, now has an opportunity to hone those parameters in light of its greater knowledge, experience and additional time. ADTRAN urges the Commission to adopt many of the refinements proposed in the *Further NPRM*.

One proposed change would be to re-define what areas would be eligible for CAF Phase I funding.¹⁴ In the first round of CAF Phase I, the Commission limited funding to areas that did not have access to fixed terrestrial broadband with a minimum speed of 768 kbps downstream and 200 kbps upstream (as reflected in the National Broadband Map). The *Further NPRM* suggests that the eligible areas be expanded to include territories where subscribers do not have access to broadband that meets the Commission's 4 Mbps downstream and 1 Mbps upstream standard.

ADTRAN supports this modification. As the Commission recognized in adopting the 4 Mbps/1 Mbps standard, such capacity reflects how broadband services are used, with emphasis on the requirements associated with classes of broadband applications utilized and the traffic volumes generated by such uses. The 4/1 Mbps rates enable all of the widely used classes of broadband applications, while maximizing the benefit of limited subsidy funding across as many

¹³ E.g., *Public Notice*, Wireline Competition Bureau Seeks Comment on Windstream Communications Petition for Waiver of Certain High-Cost Universal Service Rules, DA 12-1181, released July 25, 2012; *Public Notice*, "Wireline Competition Bureau Seeks Comment on CenturyLink Petition For Limited Waiver of Certain High-Cost Universal Service Rules," DA 12-1007, released June 27, 2012.

¹⁴ *Further NPRM* at ¶ 11.

consumers as possible. By deeming areas with lesser speeds as “already served,” the Commission would be relegating those customers to “second class” broadband.

ADTRAN also supports the *Further NPRM*’s proposal to substitute a limited challenge process for the exclusive reliance on the National Broadband Map to determine census blocks eligible for CAF Phase I broadband support.¹⁵ The National Broadband Map may not accurately reflect the broadband capabilities actually available everywhere. The proposed expedited challenge process thus properly balances the need for accuracy with the need for expedition (while also recognizing the interim nature of the second round of CAF Phase I). Moreover, it will significantly reduce resource and administrative burdens on funding recipients, other providers and the Commission compared with relying solely on the just-completed comment and reply comment round to establish a nationwide list of eligible census blocks.

The *Further NPRM* additionally seeks comment on changes to the current CAF Phase I specification of support at a fixed amount of \$775 per unserved location.¹⁶ ADTRAN also supports this change. As ADTRAN had explained previously, the \$775 per unserved location figure is largely arbitrary and not an adequate representation of costs in many areas requiring support.¹⁷ The *USF/ICC Transformation Order* itself acknowledges the numerous defects with \$775 figure selected. The model used to derive this number was not designed for analyzing

¹⁵ *Further NPRM* at ¶¶ 13-16. See, also, Petition for Waiver filed by CenturyLink, June 26, 2012 (demonstrating problems with inaccurate wireless broadband claims of service coverage).

¹⁶ *Further NPRM* at ¶¶ 31-35.

¹⁷ Letter from ADTRAN to The Honorable Julius Genachowski in WC Docket Nos. 10-90, *et al*, March 28, 2012.

broadband deployment.¹⁸ ADTRAN has elsewhere detailed the flaws in the OBI model that the Commission used to “confirm” the reasonableness of the \$775 figure.¹⁹ In selecting the \$775 figure, the Commission also relied on the BIP program investments, but recognized that the actual costs varied widely.²⁰

The danger in relying solely on the \$775 per location formula for distributing CAF Phase I support is that it will rarely reflect the actual cost in any particular situation, given the wide variation in already-deployed plant, density and terrain that affect investment costs. As reflected by the experience with the first round of CAF Phase I, where the \$775 per location is insufficient to make a viable business case for deployment, the carriers will decline the funds, and broadband service to many locations will at best be deferred to CAF Phase II. ADTRAN thus supports the proposal in the *Further NPRM* to adjust the per-location support to account for the variation in the costs of deploying broadband service in different wire centers.²¹ In addition, as explained below, ADTRAN also believes that carriers should have some flexibility to use the support for second-mile fiber deployment.

¹⁸ *USF/ICC Transformation Order* at n. 220.

¹⁹ *See, e.g.*, Comments of ADTRAN in the Connect America Fund proceeding, WC Docket No. 10-90 *et al*, filed April 18, 2011, at pp. 37-41.

²⁰ *USF/ICC Transformation Order* at ¶ 140 (“We note that our analysis indicated that the per-location cost for deployments funded through the BIP program varied considerably”).

²¹ *Further NPRM* at ¶¶ 33-34.

Subsidizing Deployment of Second Mile Fiber

The Commission also seeks comment on whether the CAF Phase I support should be expanded to allow the price cap carriers to use the funding for build-out of “second-mile” fiber in addition to, or in lieu of, build-out of broadband access to customer locations.²² ADTRAN believes that such a change would be fully consistent with the Commission’s goal of spurring additional broadband services to unserved and underserved customers. Deployment of “second-mile” fiber to support enhanced DSLAMs will be essential in order to be able to carry the increasingly vast amounts of data that customers generate once they enjoy true broadband connectivity.²³ It makes little sense to provide broadband access to customers if capacity bottlenecks in the “second-mile” would preclude the customers from being able to actually enjoy the benefits of robust and reliable broadband services. Providing carriers the flexibility to use CAF Phase I support to subsidize the deployment of “second-mile” fiber will thus meaningfully contribute to that program’s goal of accelerating broadband deployment in the near term.

CONCLUSION

ADTRAN urges the Commission to extend and modify the CAF Phase I support to allow price cap carriers to continue to expand broadband service while CAF Phase II is finalized. By

²² *Further NPRM* at ¶¶ 18-28.

²³ In addition, such deployment of “second-mile” fiber capacity has the added benefit of supporting wireless broadband networks, which will require high-capacity backhaul connections from their cell towers as 4G services are deployed.

supplementing the amount of support available and making changes to the program as suggested herein, the Commission will best serve the public interest.

Respectfully submitted,

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